

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fendley	Team: Squad #5	CCRB Case #: 201502304	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 03/28/2015 10:50 PM	Location of Incident: § 87(2)(b)	Precinct: 52	18 Mo. SOL 9/28/2016	EO SOL 9/28/2016	
Date/Time CV Reported Sun, 03/29/2015 8:03 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 03/29/2015 8:03 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Edmundo Rivera	696	955382	PBBX
2. POM Juan Gomez	27475	953916	PBBX
3. POM Brian Doherty	12054	954743	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Edmundo Rivera	Force: PO Edmundo Rivera used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Brian Doherty	Force: PO Brian Doherty used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Juan Gomez	Force: PO Juan Gomez used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On March 29, 2015, § 87(2)(b) filed this complaint via the CCRB's Call Processing System.

On March 28, 2015, at approximately 11:00 p.m., § 87(2)(b) and his cousin, § 87(2)(b) were stopped by PO Edmundo Rivera, PO Brian Doherty and PO Juan Gomez, all of the 52nd Precinct, inside of § 87(2)(b) in the Bronx. § 87(2)(b) was arrested for smoking marijuana in the hallway. § 87(2)(b) raised his voice at the officers and tried to get § 87(2)(b)'s property. § 87(2)(b) was asked to place his hands behind his back and when he did not do so, PO Rivera, PO Doherty and PO Gomez took him to the floor (**Allegations A, B and C**). § 87(2)(b) received a cut above his left eye as a result. § 87(2)(b) was taken to the stationhouse, but was later released with a summons for disorderly conduct (Board Review 1).

Mediation, Civil and Criminal Histories

This case was not suitable for mediation because of § 87(2)(b)'s threatening behavior while at the CCRB for an interview, which resulted in police response. Specifically, § 87(2)(b) threatened to kill § 87(2)(b) if the CCRB contacted him about the CCRB case. A request for notice of claim results from the New York City Comptroller's Office was submitted on June 3, 2015. However, at the time this closing report was submitted the results were still pending. § 87(2)(b)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b) (Board Review 2).

Civilian and Officer CCRB Histories

PO Rivera, PO Doherty and PO Gomez have all been members of the service for two years and there are no substantiated allegations against them. § 87(2)(g)
§ 87(2)(b) In CCRB case 201502848, § 87(2)(b) made allegations of abuse of authority and the case is still being investigated (Board Review 3).

Investigative Findings and Recommendations

Allegations Not Pleaded

The stop of § 87(2)(b) is not pleaded § 87(2)(g)
§ 87(2)(b)

Allegation A - Abuse of Authority: PO Edmundo Rivera used physical force against § 87(2)(b)

Allegation B - Abuse of Authority: PO Brian Doherty used physical force against § 87(2)(b)

Allegation C - Abuse of Authority: PO Juan Gomez used physical force against § 87(2)(b)

It is undisputed that PO Rivera, PO Doherty and PO Gomez approached and arrested § 87(2)(b) inside of § 87(2)(b) for smoking marijuana. § 87(2)(b) approached the officers and admittedly raised his voice at the officers, approached them and requested that they give him § 87(2)(b)'s property. PO Rivera told § 87(2)(b) to put his hands behind his back, but § 87(2)(b) asked what his charges were instead.

§ 87(2)(b) was then taken to the ground by PO Rivera, PO Doherty and PO Gomez. While on the ground § 87(2)(b) said that he “started acting disorderly.” He attempted to turn around to ask why the officers were abusing him. § 87(2)(b) sustained a cut above his left eye as a result of the incident. During his CCRB interview, § 87(2)(b) played a portion of the incident on a video recording, which he refused to provide to the CCRB. In the video footage, § 87(2)(b) was heard screaming “fuck y’all” and “suck my dick” numerous times while he was on the floor. No force was depicted in the video footage.

PO Rivera, PO Doherty and PO Gomez were all consistent with the fact that § 87(2)(b) immediately started to yell at the officers and pushed them. PO Rivera and PO Doherty both said that § 87(2)(b) pushed PO Doherty with an open hand on his chest, pushing him into a wall, while requesting that they not arrest § 87(2)(b). The officers all attempted to place § 87(2)(b)'s hands behind his back to handcuff him, but he resisted by refusing to do so. PO Gomez and PO Doherty thought that § 87(2)(b) fell to the ground with the officers as a result of the struggle. However, PO Rivera stated that § 87(2)(b) was taken to the floor in order to be handcuffed. According to PO Rivera, PO Doherty and PO Gomez, § 87(2)(b) continued to resist while on the ground by refusing to put his hands behind his back, but he was eventually handcuffed.

According to Patrol Guide Procedure 203-11, only the amount of force necessary to overcome resistance should be used to effect an arrest (Board Review 4).

It is undisputed that § 87(2)(b) was acting disorderly towards PO Rivera, PO Doherty and PO Gomez. It is also undisputed that § 87(2)(b) was not compliant in the officers' orders to place his hands behind his back. § 87(2)(g)

§ 87(2)(g)

Pod: 5

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date